REMARKS

I. General

Claims 98-100, 106-112, 117, 120-123, and 125 are pending in the current

application. Claims 98-100, 106-112, 117, 120-123, and 125 are finally rejected. The issues

asserted in the Office Action mailed October 30, 2003 are:

- The restriction requirement asserted by the Examiner in the Office Action mailed July 24, 2003 is made final;

- Claims 98-100, 106-112, 117, 120-123, and 125 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention; and

- Claims 98-100, 106-112, 117, 120-123, and 125 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,602,377 to Beller et al. (hereinafter *Beller*).

II. Improper Final Rejection

The Finality of the current Office Action is improper and is hereby requested to be

withdrawn. A second Action on the merits shall be made Final, **EXCEPT** where the

examiner introduces a new ground of rejection not necessitated by amendment, whether or

not the art reference is already of record. See M.P.E.P. § 706.07(a).

In the pending Office Action, the Examiner introduced a new grounds of rejection by

asserting *Beller* under 35 U.S.C. §103(a) in rejecting the pending claims. The Examiner

further stated that the new ground of rejection was necessitated by applicant's amendment.

(Office Action at 4). However, Applicant did not amend all of the claims in the previous

amendment filed May 7, 2003.

Specifically, independent claims 98, 106, and 107 *were not amended* in the

amendment filed May 7, 2003. The amendment filed May 7, 2003 was made to comply with

an election/ restriction requirement issued in an Office Action mailed February 11, 2003.

Furthermore, the last rejection of the pending claims based on a reference was in the

Office Action mailed May 9, 2001 which was improperly made final for the same reasons

that the current Office Action was improperly made final. (See Interview Summary prepared

by Examiner Greg Morse concerning an interview conducted on September 6, 2001). In the May 9, 2001 Office Action, claims 98-100, 106, and 125 were rejected in view of U.S. Patent No. 5,952,638 to Demers (hereinafter *Demers*), and claims 107-112, and 117-123 were rejected over *Demers* in view of PCT publication number WO 96/01531 (hereinafter *Vazvan '531*). Applicant responded to these rejections by arguing against these rejections, but ***did not amend*** independent claims 98 and 106 in the response filed July 02, 2001. Moreover, the amendments to independent claims 107 and 117 in the response filed July 02, 2001 were minor and did not warrant a new grounds of rejection. Therefore, Applicant respectfully asserts that the pending Office Action was prematurely made final in view of the new grounds of rejection. See M.P.E.P. § 706.07(a). Thus, Applicant respectfully requests that the Examiner withdraw the finality of the current Office Action and reconsider the pending claims.

III.   Rejection under § 112, second paragraph

Claims 98-100, 106-112, 117, 120-123, and 125 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The Examiner asserts that the terms "correlating" of claims 98 and 106, "relates to" of claim 117, and "associated with" of claims 123 and 125 do not have support in the descriptive portion of the specification.

Applicant submits that the mere fact that a term or phrase used in the claim has no antecedent basis in the specification disclosure does not mean that the term or phrase is indefinite. See M.P.E.P. § 2173.05(e). In addition, there is no requirement that the words in a claim must match those used in the specification disclosure. See M.P.E.P. § 2173.05(e). Applicants are allowed a great deal of latitude in how they choose to define their invention as long as the terms and phrases used define the invention with a reasonable degree of clarity. Applicant submits that the words used in the pending claims do define the invention with clarity. Moreover, Applicant submits that the wording of the claims clearly defines the invention as pointed out below.

Claims 98 and 106

Claim 98 recites:
> means for *correlating* said financial data with said customer
> information.

Claim 106 recites:
> *correlating* one or more of said customers to one or more of
> said transaction amounts.

The use of "correlating" in claims 98 and 106 conveys the normal meaning of the word "correlate" which is to place or bring into mutual or reciprocal relation. Webster's College Dictionary 302 (1991). In addition, the specification does provide support for claims 98 and 106 by disclosing that a financial system using the wireless network correlates the customer with a transaction amount entered by a merchant at an identified point of sale location. (Specification, page 4, lns 6-10). Therefore, Applicant respectfully requests that the rejection under 35 U.S.C. § 112, second paragraph, for claims 98 and 106 be withdrawn.

Claims 107 and 117

Claim 107 recites:
> A method for processing financial data, wherein said financial data
> *relates to* customer transactions at point of sale locations...

Claim 117 recites:
> A system for processing financial data, wherein the financial data
> *relates to* transactions by customers at point of sale locations...

The use of the term "relates to" in claims 107 and 117 clearly defines the invention claimed in claims 107 and 117. The use of "relates to" conveys the normal meaning of "relate" which is to bring into or establish an association or connection. Webster's College Dictionary 1136 (1991). In addition, the specification does provide support for claims 107 and 117 by disclosing that a wireless financial system may be used, if a customer is buying gasoline or using a vending machine, to authorize a pump (or vending machine) to dispense gas (or soda) and then confirm the total transaction amount after the customer stops pumping gas (or has received the desired merchandise). (Specification, page 7, lns 20-25). Therefore, Applicant respectfully requests that the rejection under 35 U.S.C. § 112, second paragraph, for claims 107 and 117 be withdrawn.

Claims 123 and 125

Claim 123 recites:
> transmitting a transaction amount to be displayed to the user via the
> wireless device, wherein the transaction amount is *associated with*
> the selected point-of-sale terminal;

Claim 125 recites:
> receiving a transaction amount that is *associated with* the point-of-sale terminal

The use of the term "associated with" in claims 123 and 125 clearly defines the invention claimed in claims 123 and 125. The use of "associated with" conveys the normal meaning of "associate" which is to connect or bring into relation. Webster's College Dictionary 83 (1991). In addition, the specification does provide support for claims 123 and 125 by disclosing that system 10 has a point of sale terminal 11 at location 100, and system 10 allows a customer to use a wireless telephone 13 to purchase goods at location 100. (Specification, page 8, lns 18-20). When the customer decides on a purchase, the transaction cost is displayed at location 100 on register 12 or on display 15 of a wireless telephone or the transaction cost can be transmitted to network 17. (Specification, page 8, lns 18-25). Therefore, Applicant respectfully requests that the rejection under 35 U.S.C. § 112, second paragraph, for claims 107 and 117 be withdrawn.

IV.   Rejection under § 103(a)—*Beller*

The Examiner rejected claims 98-100, 106-112, 117, 120-123, and 125 under 35 U.S.C. §103(a) as being unpatentable over *Beller*. Applicant respectfully traverses this rejection and assert that the rejected claims are allowable at least for the reasons stated below.

To establish a prima facie case of obviousness under 35 U.S.C. § 103(a), the prior art cited must teach or suggest all the claim limitations. M.P.E.P. § 2143. Applicant respectfully asserts that the cited references do not teach or suggest all the claim limitations, and, therefore, the claims are patentable under 35 U.S.C. § 103(a).

Failure to teach or suggest all claim limitations

A.   Independent Claims

Claim 98

Claim 98 requires, in part:
> means for receiving customer information from a wireless network.

Beller fails to teach this element. *Beller* teaches a method of scanning and decoding a bar code dataform and producing a modified bar code dataform incorporating additional data.

(*Beller*, col. 5, lns 3-6). In addition, *Beller* teaches that the modified bar code dataform (16) incorporates additional data such as data retrieved from a database (18) accessed through a remote device (20) wherein database (18) includes purchasing and sales files as well as inventory an product information files. (*Beller*, col. 5, lns 60-64; col. 6, lns 30-33). However, there is no mention or teaching of receiving customer information. In addition, the Examiner asserts that block 500 of Figure 6 reads on this element. (See Office Action at 3). *Beller* teaches that block 500 represents a step where a customer selects an item of merchandise for purchase and takes the item to the point of sale terminal. (*Beller*, col. 12, lns 18-20). This merely illustrates a customer selecting an item for purchase and does not mention or teach in any manner receiving customer information from a wireless network. Therefore, *Beller* fails to teach a means for receiving customer information from a wireless network as required by claim 1.

> Claim 98 further requires:
>> means for correlating said financial data with said customer information.

Beller fails to teach this element. The Examiner asserts that blocks 526 and 542 of Figure 6A read on this element. *Beller* teaches that when an item of merchandise is returned to a retailer, the modified bar code dataform printed on the sales receipt and the modified bar code dataform printed on the label will be scanned and decoded. (*Beller*, col. 12, lns 50-55; Figure 6A, blocks 522 and 524). The decoded values are then compared to validate the purchase price, date of sale, and item stock number in block 526. (*Beller*, col. 12, lns 55-57). If the sales receipt does not include the modified bar code dataform, then block 542 teaches that the label is decoded and the decoded information is compared to the human readable characters on the sales receipt to validate the purchase price, date of sale, and stock number. (*Beller*, col. 13, lns 3-10). However, the comparing of bar codes on a sales receipt and a product label to verify price, date of sale, and stock number is not the correlating of financial data with customer information. Furthermore, *Beller* does not teach customer information received from a wireless network, and thus, *Beller* does not teach correlating financial data with customer information received from a wireless network. Therefore, *Beller* fails to teach all the claim limitations of claim 98, and Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) for claim 98 be withdrawn.

Claim 106

Claim 106 requires, in part:

> charging said transaction amounts to accounts selected by said customers.

> crediting said transaction amounts to accounts selected by merchants at said point of sale locations.

Beller fails to teach these elements. *Beller* teaches a method of scanning and decoding a bar code dataform and producing a modified bar code dataform incorporating additional data and a method of scanning and decoding a bar code dataform, modifying the decoded bar code dataform data and producing a modified bar code incorporating the modified bar code dataform data. *(Beller,* col. 5, lns 3-10). *Beller* fails to mention or teach charging transaction amounts to accounts selected by customers and crediting the transaction amounts to accounts selected by merchants at the point of sale locations as required by claim 106. Therefore, *Beller* fails to teach all the claim limitations of claim 106, and Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) for claim 106 be withdrawn.

Claim 107

Claim 107 requires, in part:

> identifying a geographic area for a customer who has initiated a transaction using a wireless device, said identifying step accomplished by determining a specific wireless cell that is in communication with said customer's wireless device.

> determining which of said plurality of point of sale locations are within said geographic area.

Beller fails to teach these elements. *Beller* teaches a modified bar code dataform (16) that incorporates additional data such as data retrieved from a database (18) accessed through a remote device (20) wherein database (18) includes purchasing and sales files as well as inventory an product information files. *(Beller,* col. 5, lns 60-64; col. 6, lns 30-33). The mere use of a remote device does not teach identifying a geographic area for a customer who has initiated a transaction using a wireless device by determining a specific wireless cell in communication with the customer's wireless device. Furthermore, *Beller* teaches the existence of a point of sale device, such as a cash register, wherein a scanner for scanning bar code dataform of a product and a printer for printing a modified bar code are hardwired to the point of sale device. *(Beller* col. 10, ln 60 to col. 11, ln 5). However, the mere teaching of a

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point of sale device does not teach determining which of a plurality of point of sale locations are within the geographic area that is identified for the customer who initiated a transaction using a wireless device. Therefore, *Beller* fails to teach all the claim limitations of claim 107, and Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) for claim 107 be withdrawn.

Claim 117

Claim 117 requires, in part:

> means for displaying point-of-sale locations to a user via one or more menus on the wireless device...
>
> means for charging the correlated transaction amount to a source of funds identified by the user to allow completion of the desired transaction.

Beller fails to teach these elements. *Beller* teaches a method of scanning and decoding a bar code dataform and producing a modified bar code dataform incorporating additional data using a bar code scanning and labeling device that may be wireless. (*Beller*, col. 5, lns 3-10 and col. 6, lns 26-38). However, the mere teaching of a wireless bar code scanning device fails to teach or mention a means for displaying a point of sale location to a user via one or more menus on a wireless device.

Furthermore, the Examiner asserts that steps 528 and 530 of Figure 6A teach confirming a transaction amount. (See Office Action at 3). Blocks 528 and 530 teach that if a decoded data value of a label and sales receipt agree with each other and the human readable characters on the receipt, then the purchase price will be determined at block 528 and the item purchase price will be refunded or credited to the customer in block 530. (*Beller*, col. 12, lns 59-65). This merely teaches a way in which a price on a sales receipt is verified against a bar code before a refund is credited to a customer. However, there is no mention or teaching of charging a transaction amount to a source of funds identified by a user. Therefore, *Beller* fails to teach all the claim limitations of claim 117, and Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) for claim 117 be withdrawn.

Claim 123

Claim 123 requires, in part:

>connecting a user to a centralized financial services application via a wireless network.

>identifying a current location of the user by determining a current wireless network cell that is in communication with the user's wireless device.

Beller fails to teach these elements. *Beller* teaches a method of scanning and decoding a bar code dataform and producing a modified bar code dataform incorporating additional data. (*Beller*, col. 5, lns 3-6). There is no mention or teaching of connecting a user to a centralized financial services application vie a wireless network. In addition, *Beller* fails to teach identifying a current location of a user by determining a current wireless network cell that is in communication with the user's wireless device. Therefore, *Beller* fails to teach all the claim limitations of claim 123, and Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) for claim 123 be withdrawn.

Claim 125

Claim 125 requires, in part:

>initiating a call to a centralized financial services application.

>selecting a desired type of product or service from a first list displayed on the wireless device.

Beller fails to teach these elements. *Beller* teaches a method of scanning and decoding a bar code dataform and producing a modified bar code dataform incorporating additional data. (*Beller*, col. 5, lns 3-6). There is no mention or teaching of initiating a call to a centralized financial services application.

Beller teaches a bar code scanner having a screen that can display additional data that was not included in the original bar code dataform and data about a product, such as the product's price, when the bar code scanner scans a bar code on a product. (*Beller*, col. 8, lns 1-8 and col. 9, lns 1-10). However, a bar code scanner with a screen does not teach selecting a desired type of product or service from a first list displayed on a wireless device. Therefore, *Beller* fails to teach all the claim limitations of claim 125, and Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) for claim 125 be withdrawn.

B.   Dependent Claims

Claims 99, 100, 108-112, and 120-122 depend directly or indirectly from their respective base claims 98, 107, and 117 and thereby inherit all of the respective limitations. Accordingly, it is respectfully submitted that the dependent claims are allowable based on at least their dependency from independent base claims 98, 107, and 117 for at least the reasons discussed above. Thus, Applicant respectfully submits that based on the arguments above, claims 99, 100, 108-112, and 120-122 are patentable under 35 U.S.C. § 103.

V.   Summary

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.
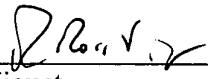
Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 06-2380, under Order No. 51410/P003US/09705003 from which the undersigned is authorized to draw.

Dated: December 23, 2003   Respectfully submitted,

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